

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 4, “Public Records and Fair Information Practices,” Chapter 600, “General Information,” and Chapter 605, “License Issuance,” Iowa Administrative Code.

This rule making was initiated in response to requests from the Iowa Nurse Practitioner Society, which provided information to the Department indicating that persons accessing health care through advanced registered nurse practitioners (ARNPs) could not obtain from them medical reports relevant to fitness to drive determinations because existing rule language limits the definition of “medical report” to reports prepared by physicians and optometrists. The purpose of this rule making is to give Iowa citizens faced with a fitness determination a greater range of access to qualified medical professionals who may evaluate and assist them.

These amendments will promote conformity with Iowa Code section 321.186(4), which allows ARNPs and physician assistants (PAs) to submit confidential reports to the Department on drivers they deem to be incapable. These amendments will also give a person identified as an incapable driver better access to health care professionals who can assist in determining or reassessing the person’s fitness to drive by expanding the list of professionals who may submit medical reports relevant to a fitness to drive determination to include ARNPs and PAs when practicing within the scope of their professional license.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than February 12, 2013.

A meeting to hear requested oral presentations is scheduled for Thursday, February 14, 2013, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 S.E. Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 321.186.

Proposed rule-making actions:

ITEM 1. Amend subrule 4.9(25) as follows:

4.9(25) A report received by the department from a ~~physician or optometrist~~ physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and registered with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as

having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

ITEM 2. Amend rule ~~761—600.1(321)~~, definitions of “Medical report” and “Physician,” as follows:

“*Medical report*” means a report from a ~~physician~~ qualified medical professional attesting to a person’s physical or mental capability to operate a motor vehicle safely. The report should be submitted on Form 430031, “Medical Report.” In lieu of Form 430031, a report signed by a ~~physician~~ qualified medical professional on the ~~physician’s~~ qualified medical professional’s letterhead may be accepted if it contains all the information specified on Form 430031.

“*Physician Qualified medical professional*” means a person licensed ~~to practice medicine and surgery or osteopathic medicine and surgery~~ as a physician under Iowa Code chapter 148, a person licensed as an advanced registered nurse practitioner under Iowa Code chapter 152 and registered with the board of nursing, or a person licensed as a physician assistant under Iowa Code chapter 148C, when practicing within the scope of the person’s professional licensure.

ITEM 3. Amend paragraph ~~600.4(4)~~“c” as follows:

c. If an episode occurs when medications are withdrawn by a ~~physician~~ qualified medical professional, but the person is episode-free when placed back on medications, the department may license without a six-month episode-free period with a favorable recommendation from a neurologist.

ITEM 4. Amend paragraph ~~600.4(4)~~“d” as follows:

d. If a medical report indicates the person experienced a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating the person for the episode and believes it is unlikely to recur, the department may license without the six-month episode-free period with a favorable recommendation from a ~~physician~~ qualified medical professional.

ITEM 5. Amend paragraph ~~605.5(5)~~“b” as follows:

b. *Loss of consciousness or voluntary control.*

(1) and (2) No change.

(3) If the latest medical report indicates the person experienced only a single nonrecurring episode, the cause has been identified, and the ~~physician~~ qualified medical professional is not treating or has not treated the person for the episode and believes it is unlikely to recur, the department may waive the medical report requirement upon receipt of a favorable recommendation from a ~~physician~~ qualified medical professional.

(4) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control and has not been prescribed medications to control such episodes during the 24-month period immediately preceding application for a license.

(5) The department may remove the medical report requirement and issue a full-term driver’s license if recommended by a ~~physician~~ qualified medical professional and if the latest medical information on file with the department indicates the person has not had an episode of loss of consciousness or voluntary control during the 10-year period immediately preceding application for a license.